

# UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America	)	
v.	)	
HERBERT COUNCIL	)	Case No: <u>3:92CR00097-020</u>
	)	USM No: <u>09627-058</u>
Date of Previous Judgment: <u>July 13, 1993</u>	)	<u>Claire J. Rauscher</u>
(Use Date of Last Amended Judgment if Applicable)	)	Defendant's Attorney

## Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

**IT IS ORDERED** that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_.

### I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>36</u>	Amended Offense Level: <u>36</u>
Criminal History Category: <u>II</u>	Criminal History Category: <u>II</u>
Previous Guideline Range: <u>210</u> to <u>262</u> months	Amended Guideline Range: <u>210</u> to <u>262</u> months

### II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): No reduction since the original guideline calculations involved cocaine powder, not crack cocaine.

### III. ADDITIONAL COMMENTS

A motion has been filed by the defendant, pro se, in this case. As such, the Federal Defender for the Western District of North Carolina, Claire Rauscher, is named as the attorney.

Except as provided above, all provisions of the judgment dated July 13, 1993 shall remain in effect.

**IT IS SO ORDERED.**

Order Date: March 3, 2009

Effective Date: \_\_\_\_\_  
(if different from order date)



Graham C. Mullen  
United States District Judge

